

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

COLONY INSURANCE COMPANY a/s/o
BRIANS SOUND BEACH, LLC d/b/a
NEIGHBORHOOD DELI

vs.

PARACO GAS CORPORATION,
PARACO GAS OF BAY SHORE, LLC,
PARACO GAS OF LONG ISLAND, INC.
AND PARACO GAS OF NEW YORK,
INC.

CIVIL ACTION

NO.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, COLONY INSURANCE COMPANY (“Plaintiff”) as subrogee of BRIANS SOUND BEACH, LLC, d/b/a Neighborhood Deli (“Neighborhood”), 330 Neighborhood Road, Mastic Beach, NY 11951, complaining of Defendant, PARACO GAS CORPORATION, PARACO GAS OF BAY SHORE, LLC, PARACO GAS OF LONG ISLAND, INC. AND PARACO GAS OF NEW YORK, INC. (“Defendants”), by and through its attorneys, MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS, hereby files this Complaint, and in support thereof, alleges the following information and belief:

PARTIES

1. Plaintiff, Colony Insurance Company as subrogee of Brian’s Sound Beach, LLC d//b/a Neighborhood Deli, was at all times material hereto, and still is, a corporation organized and existing under the laws of the State of Virginia with its principal place of business located at 8720 Stony Point Pkwy Suite 400, Richmond, VA

23235. At all times relevant hereto, Colony was licensed and authorized to issue and administer policies of insurance in the State of New York.

2. At all times relevant hereto, Defendant, Paraco Gas Corporation was a corporation organized and existing under the laws of the State of New York with its principal place of business located at 800 Westchester Ave., STE.s604, Rye Brook, New York, 10573.

3. At all times relevant hereto, Defendant, Paraco Gas of Bay Shore, LLC was a corporation organized and existing under the laws of the State of New York with its principal place of business located at 800 Westchester Ave., STE.s604, Rye Brook, New York, 10573.

4. At all times relevant hereto, Defendant, Paraco Gas of Long Island, Inc. was a corporation organized and existing under the laws of the State of New York with its principal place of business located at 800 Westchester Ave., STE.s604, Rye Brook, New York, 10573.

5. At all times relevant hereto, Defendant, Paraco Gas of New York, Inc. was a corporation organized and existing under the laws of the State of New York with its principal place of business located at 800 Westchester Ave., STE.s604, Rye Brook, New York, 10573.

6. At all times relevant hereto, Defendants were natural gas and propane suppliers and servicers providing natural gas and propane delivery and service to private persons and businesses.

JURISDICTION AND VENUE

7. Jurisdiction in this Court is based upon diversity of citizenship pursuant to 28 U.S.C. §1332 as this action is between citizens of different states and the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00.

8. Venue is proper pursuant to 28 U.S.C. §1391 because a substantial part of the events or omissions giving rise to the Plaintiff's claims occurred within the District of New York.

GENERAL ALLEGATIONS

9. At all time Plaintiff was an entity engaged in the business of insurance.

10. At all times Plaintiff was the insurance carrier to Neighborhood.

11. Neighborhood was the tenant of the building/structure located at 330 Neighborhood Road, Mastic Beach, NY 11951 ("subject property").

12. Neighborhood were preparing to open a deli and convenience store out of the subject property.

13. Plaintiff issued an insurance policy: 101 PKG 0088482-00 to Neighborhood, which covered both real and commercial property.

14. In the summer of 2016 renovations took place at the subject property.

15. Renovations at the subject property included the installation of a new hot-water heater and natural gas/propane supply lines to the hot-water heater and kitchen appliances.

16. On or about, October 29, 2018, Defendants were hired by Neighborhood to provide propane/natural gas, and propane/natural gas services to the subject property.

17. Defendants were solely responsible for providing propane/natural gas, and

propane/natural gas services to the subject property.

18. On or about, October 29, 2018, Defendants installed propane/natural gas storage tanks at the subject property.

19. On or about, October 30, 2018, Defendants returned to the subject property to turn on propane/natural gas service and performed a pressure test on the propane/natural gas system to ensure the system was fit for use.

20. In performing the pressure test of the propane/natural gas system at the subject property the Defendants failed to discover and correct leaks throughout the propane/natural gas system which allowed dangerous propane/natural gas to escape into the subject property.

21. In performing the pressure test of the propane/natural gas system at the subject property the Defendants failed to perform its propane/natural gas services in accordance with National Propane Gas Association ("NPGA") guidelines, NFPA 58, Suffolk County Local Ordinances, the New York State Uniform Fire Protection and Building Code (Chapter 1 § 101.2.5), the 2015 International Fuel Gas Code as adopted by New York State (Chapter 4 § 401 *et seq.*).

22. As a result of the Defendants' failure to properly perform propane/natural gas services at the subject property fugitive/natural gas in the subject property ignited and exploded causing significant damage to the subject property.

23. Pursuant to the insurance policy with Neighborhood, Plaintiff paid approximately \$684,574.60 to Neighborhood for damages to the subject property.

24. As a result, plaintiff is subrogated to the rights of Neighborhood to the amount of \$684,574.60.

25. Defendants' failure to properly perform propane/natural gas services, which resulted in significant damage to Plaintiff's property, was directly and proximately caused by negligent, reckless, and/or other liability producing conduct of Defendant.

COUNT I – NEGLIGENCE

26. Plaintiff incorporates herein by reference paragraphs 1 through 24, as though the same were fully set forth at length.

27. Defendants had a duty to exercise reasonable care in the delivery of propane/natural gas and performance of propane/natural gas services at the subject property.

28. Defendants breached the aforementioned duty when it failed to exercise care in the following ways:

- (a) failing to perform its propane/natural gas delivery and services in accordance with NPGA guidelines;
- (b) failing to perform its propane/natural gas delivery and services in accordance with Suffolk County Local Ordinances;
- (c) failing to perform its propane/natural gas delivery and services in accordance with the New York State Uniform Fire Protection and Building Code § 101.2.5;
- (d) failing to perform its propane/natural gas delivery and services in accordance with the 2015 International Fuel Gas Code sections, §401.1, §401.2, §406.1, §406.1.1, §406.41, §406.4.2, §406.6.2, and §406.6.3;
- (e) failing to perform its propane/natural gas delivery and services in

accordance with NFPA 58, ¶§6.14.

- (f) failing to conduct a proper pressure test;
- (g) failing to properly train its employees
- (h) failing to hire a properly trained individual;
- (i) failing to send a properly trained employee to perform the pressure test.

29. The aforementioned breach of duty was the direct and proximate cause of the damages, and it was a result of the negligence, recklessness, and/or other liability producing conduct of Defendants, by and through its employees, agents, technicians, and/or servants.

30. As a result of the damages proximately caused by the negligence and/or other liability producing conduct of Defendants, Plaintiff sustained and incurred damage to the property in the amount of approximately \$684,574.60.

WHEREFORE. Plaintiff demands judgment in its favor and against Defendants in an amount of approximately \$684,574.60 plus interest, cost of suit, lost profits, delay damages, and such other relief as the court deems appropriate under the circumstances.

MINTZER, SAROWITZ, ZERIS, LEDVA & MEYERS, LLP

BY: 

BRADLEY J. LEVIEN, ESQUIRE
Attorney for Defendant(s), COLONY INSURANCE
COMPANY a/s/o BRIANS SOUND BEACH, LLC d/b/a
NEIGHBORHOOD DELI
17 West John Street, Suite 200
Hicksville, NY 11801
(516) 939-9200
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